

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-2048

APPENDIX OF THE DEFENDANT-APPELLEE
GERALD E. FARRELL

IN THE
UNITED STATES COURT OF APPEALS
For The Second Circuit

Docket No. T-5938

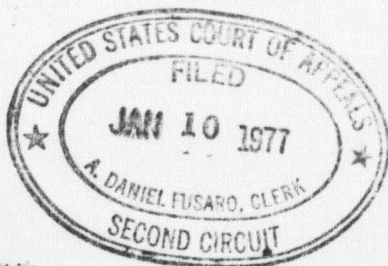
JOHN ANTHONY HOUSAND,
Plaintiff-Appellant

vs.

GERALD E. FARRELL,
Defendant-Appellee

Statement Pursuant to Rule 15(b)

During the late fall of 1975, the plaintiff and the defendant exchanged letters concerning a civil suit the plaintiff desire to bring against an out-of-state medical doctor. The defendant never commenced representation of the plaintiff in this matter but did make inquiries of the



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plaintiff for certain information relative to reaching a decision of whether he would, in fact, represent the plaintiff. On December 24, 1975, the defendant informed the plaintiff that any decision concerning representation would have to be delayed until representation of Joseph Crisafi had come to an end.

Thereafter, in February of 1976, Joseph N. Crisafi was subpoenaed by the plaintiff to testify in the case of United States vs. John A. Housand. The defendant was appointed to act as attorney for Mr. Crisafi, and Mr. Crisafi invoked his privileges under the Fifth Amendment of the United States Constitution and declined to answer questions put to him by the plaintiff's attorney.

At no time did the defendant inquire or seek information that could be harmful to the plaintiff's interest insofar as it pertained to the case of United States vs. John A. Housand, nor was any information given by the plaintiff that would be harmful in that case.

Subsequently, the plaintiff was convicted and sentenced to be incarcerated. Thereafter, he brought suit against the defendant alleging a conflict of interest. The United States District Court dismissed the complaint sua sponte on March 10, 1976 and on March 12, 1976 entered a judgment accordingly.

Memordanum of Decision

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JOHN ANTHONY HOUSAND :

V. :

CIVIL NO. B-7675

ATTORNEY GERALD E. FARRELL :

MEMORANDUM OF DECISION

Plaintiff filed a pro se complaint seeking \$25,000 damages from an attorney whom he alleges formerly represented him. The complaint includes as exhibits numerous letters exchanged between plaintiff and the attorney. Plaintiff wrote the attorney on August 3, 1975, bringing to his attention a grievance he had against a doctor who allegedly testified against the plaintiff in a hearing without the plaintiff's consent. The attorney responded on August 18, 1975, advising plaintiff that he thought plaintiff had a "right of action" against the doctor for invasion of privacy. The attorney pointed out that he could not represent plaintiff since plaintiff was then being represented by another attorney in a criminal matter. Plaintiff wrote the attorney on November 19, 1975, requesting the attorney to handle the claim against the doctor. Thereafter the attorney wrote to

plaintiff on December 3 and December 12, asking questions concerning the claim against the doctor. Finally, on December 24, 1975, the attorney wrote the plaintiff, "I must delay any decision on representing you until my representation of Joseph Crisafi has come to an end."

Plaintiff alleges that he is entitled to damages from the attorney because Crisafi was a witness before two grand juries that returned indictments against the plaintiff. Plaintiff alleges that in "accepting" representation of plaintiff in connection with the claim against the doctor, the attorney breached conflict of interest limitations.

The suit is totally baseless. From the documents attached to the complaint, it is apparent that the attorney never undertook to represent the plaintiff. His sole connection with the claim against the doctor was to suggest to plaintiff that the claim had merit and to ask minor questions about it. Whatever connection the attorney had with the claim lasted only from November 19, when plaintiff asked the attorney to handle the claim, until December 24, when the attorney advised that he would have to delay any decision as to representation. Plaintiff's present complaint contains no allegation whatsoever, much less any facts to support an

allegation, of any injury to plaintiff that was caused by the attorney's one-month consideration of whether to represent the plaintiff.

The complaint fails to state a claim on which relief may be granted. Since federal court jurisdiction would be available only because of diversity of citizenship and some indication that \$10,000 is in controversy, the complaint must also be dismissed for lack of jurisdiction since the allegations totally fail to indicate that any amount is in controversy. See Nieves v. Stamford Hospital, 345 F. Supp. 1014 (D. Conn. 1972).

Accordingly, the complaint is dismissed sua sponte. The papers may be filed without fee.

Dated at Hartford, Connecticut this 10th day of March, 1976.

Jon O. Newman (Signed)

Jon O. Newman
United States District Judge

Judgment

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JOHN ANTHONY HOUSAND :
V. : CIVIL NO. B-76-75
ATTORNEY GERALD E. FARRELL :

J U D G M E N T

This cause came on for consideration on a pro se Complaint and the Court having filed its Memorandum of Decision under date of March 11, 1976, dismissing said complaint sua sponte,

It is accordingly ORDERED, ADJUDGED and DECREED that judgment be and is hereby entered in favor of the respondent and the complaint is dismissed sua sponte.

Dated at Bridgeport, Connecticut, this 12th day of March, 1976.


SYLVESTER A. MARKOWSKI, Clerk

By Vincent R. DeRosa (Signed)
Vincent R. DeRosa
Deputy in Charge

CERTIFICATION:

This is to certify that a copy of the within was
mailed this 27th day of October, 1976 to:

Mr. John Housand
No. 25790-145
Pembroke Station
Danbury, Connecticut 06810



GERALD E. FARRELL
Commissioner of the Superior Court